

Circular, February 19, 1879

TELEPHONE PATENTS.

Bray, drawer 19

Executive Office American Speaking Telephone Company, Western Union Building. New York, February 19th, 1879. TO THE PUBLIC:

The Bell Telephone Company, in an attempt to escape the disastrous consequences to its interests, of the re-issue to Mr. Gray, of certain patents on inventions of much earlier date than any patents issued to Mr. Bell for Speaking Telephones, has issued a circular to the public, which contains so many incorrect or irrelevant statements, as to make a reply to it proper, on the part of this Company.

First. It is alleged in the Bell circular, that "Mr. Bell received his first patent *on the Speaking Telephone*, March 7, 1876."

We answer, that Mr. Bell's patent of that date *contains no mention whatever of a speaking telephone* It is for an improvement in a system of multiple telegraphy, an invention of the same general character as several prior inventions patented by Mr. Gray. In his specifications for this patent Mr. Bell *makes no reference whatever to the possibility of transmitting articulate speech* by his apparatus. Moreover, the apparatus there described *never was a speaking telephone and is incapable of being made such.*

Mr. Bell in his lecture delivered in London October 31, 1877, says of it, that though his assistant declared that "he heard a *faint sound* from it," he himself " *was unable to verify this assertion.*"

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Second. Mr. Gray, on the contrary, previously to the issue of Mr. Bell's first patent, *invented an effective Speaking Telephone*, of which the apparatus is shown in the following cut:

and filed his caveat, with drawings like said cut, in the Patent office to protect the same, February 14, 1876, nearly a month before Mr. Bell's patent was issued.

In the specifications accompanying this caveat Mr. Gray stated, that the object of his invention was “ *to transmit the tones of the human voice through a telegraphic circuit, and reproduce them at the receiving end of the line, so that actual conversations can be carried on by persons at long distances apart.*” “The obvious practical application of my invention will be, *to enable persons at a distance to converse with each other through a telegraphic circuit, just as they would do in each others presence, or through a speaking tube.*”

Third. With regard to the patents re-issued to Mr. Gray, January 28, 1879, the Bell circular states that “there is no claim that the apparatus described could be used for transmitting speech, and the company cannot—under these re-issues—give the slightest protection to those who infringe the Bell patents.” To this we answer, that the Gray patents cover the use of his apparatus as *receiving telephones*, and also the *novel art* of receiving speech through them. No transmitting telephone is of the slightest value without a *receiver* to take the message at the other end of the line. This Company denies that the Bell patents can be maintained *even as covering the use of a transmitting telephone*; that question is now in litigation between the two companies; but as against the earlier invention of Mr. Gray—now patented—the Bell telephones certainly cannot be used as *receivers*, and without the right to use a receiver, the Bell instruments are utterly valueless. The Bell circular further states that “we are advised by our counsel that the re-issues will undoubtedly be declared void by the courts, as not being for the same invention as that embraced in the original

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patent, and also that the claims will be so construed as not to embrace anything to be found in the instruments made by the Bell Telephone Co.”

To this we answer, that the original patent on which these re-issues were granted was dated July 27, 1875, eight months earlier than Mr. Bell's first patent, *but the original application for a patent, with the same model and drawings on which the re-issues are now granted, was filed in the Patent office by Mr. Gray in June 1874, nearly two years before the issue of Bell's patent; that model was then, and is now, an effective telephone, and can be made efficient to transmit and receive articulate speech by simply duplicating the receiving instrument for a transmitter.*

The re-issued patents, therefore, describe nothing and claim-nothing which had not been invented prior to June 1874, and for which patents might not have been taken at that date.

This Company is advised by counsel as eminent in patent law as any in the country, that the patents thus re-issued to Mr. Gray and which it now controls, *completely cover the Bell telephones and all other telephones now in use as receiving instruments*, and that no communication by telephone can be established or maintained, by Bell telephones or any other instruments now in use, without infringing said patents. Mr. Gray's first claim (in one of these patents, No. 8,559), is in these words: “I claim as my own invention. 1. *The diaphragm or disk of metal, capable of responding to all kinds of tones, vibrating in unison with the electro magneto included in the electric circuit, substantially as setforth.*”

Every magneto telephone, whether transmitter or receiver, must contain a diaphragm electro-magnet with which it vibrates in unison, and when in use must be included in an electric circuit. Each of these conditions is found in the Bell telephones and the combination of all of them is indispensable to it.

Fourth. As to suits, this Company has brought suit for infringement of these patents against Mr. Williams, of Boston, who is said to be the sole manufacturer of the Bell telephones,

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and also against the New England Telephone Co., of Boston, the exclusive agent of the Bell telephones in the New England States.

It has thus challenged the Bell Company, in the state where it was chartered, and in the city where it has its home, to disprove the validity and controlling character of the patented inventions which it holds It has also brought a similar suit against the Law Telegraph Company of New York, the principal users in this city of the Bell telephones.

These suits will be prosecuted as rapidly as possible. Other suits against users of Bell telephones, in other cities, are in preparation and will be begun without delay.

Fifth. The statements of the Bell circular respecting passages in Mr. Prescott's book, Prof. Watson's account of what happened at the Centennial, what Mr. Gray is reported to have said in a lecture in Chicago, and what the Western Electric Manufacturing Co. did as agents of the Bell Telephone Co., all relate to matters wholly irrelevant to the issue pending between this Company and the Bell Company, which is, *to which of them belong the controlling inventions to the Speaking Telephone.*

- The Edison Carbon Telephone, which is superior to all other telephones in use, *is the undisputed property of this Company*, and may be used by the public, under its authority, without even the fear of threats for infringement by other parties. All telephones in use as receiving instruments, are an infringement of Mr. Gray's patents and will be proceeded against as such.

THE AMERICAN SPEAKING TELEPHONE CO.

By George Walker, *PRESIDENT.*